IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 219 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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JUBILEE MILLS LTD. EMPLOYEES' CO.OP. SOCIETY LTD. - Applicant(s)
Versus
O.L. OF JUBILEE MILLS LTD. & 6 - Respondent(s)

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Appearance :
MR DS VASAVADA for Applicant & respondent No. 7.
OFFICIAL LIQUIDATOR for Respondent No(s).: 1.
MR JV BHAIRAVIA for Jivanlal F. Parmar.
NOTICE SERVED BY DS for Respondent No(s).: 2, 5,6.
SINGHI & CO for Respondent No(s).: 3.
MR PAVAN S GODIAWALA for Shaukat Ali Khan.
None for Respondent No(s).: 7.

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CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date : 10/08/2005

ORAL JUDGMENT

1. The applicant, namely, Jubilee Mills Limited Employees Co-operative Society Limited has taken out this Judge's Summons seeking extension of time for the period of one month to lift the material sold to the applicant in response to the order passed by this Court in O.L.R. No. 11/2004 dated 01.04.2004 without charging any rent.

2. An affidavit in support of the Judge's Summons is filed by Shri A.K. Doshi, President of the applicant Society. It is stated in the said affidavit that the employees of the Ahmedabad Jubilee Mills Limited had formed the applicant Credit Society and the shareholders of the applicant Credit society were the actual employees of the Jubilee Mills Limited (In Liquidation). It is further stated that various machineries like G.P.D. Plant and other

machineries were auctioned out by the Sale Committee. The applicant Society had given a bid of Rs. 1.75 Lacs and the Official Liquidator has filed his report being O.L.R. No. 11/2004. This Court has accepted the report filed by the Official Liquidator and confirmed the sale in favour of the applicant Society. As per the said order, the applicant Society has paid the full consideration. After payment of full consideration, the applicant Society had started lifting materials. However, due to marriage season and shortage of labour and some disturbance and misunderstanding, the work of lifting the materials could not be completed within the stipulated period and hence, the extension of time for one month was sought for. Since the shareholders of the applicant Society are poor persons and the Society is suffering from shortage of fund, no rent should be charged from the Society for extension of time.

3. The Textile Labour Association which is

impleaded as one of the party – respondent has filed the supporting affidavit stating that Textile Labour Association has no objection if the time prayed for is granted by this Court.

4. This Court has issued notice on 09.07.2004 on the respondents. The Official Liquidator has filed his report on 23.07.2004. It is stated in the said report that earlier, the Jubilee Mills was a part of Calico Mills as a unit thereof. Later on, Jubilee Mills was corporatised as a separate Company and certain assets at various locations were transferred by Calico Mills to Jubilee Mills. So far as the textile unit of Jubilee Mills at outside Dariyapur gate, Ahmedabad is concerned, it could be identified as assets of Jubilee Mills to the exclusion of Calico Mills at the time when possession of assets of Jubilee Mills was taken by the Official Liquidator pursuant to the winding up order dated 05.09.1989. However, there were disputes of ownership between Calico Mills and

Jubilee Mills about Sewing Thread Plant located within the Calico Mill's compound. The said plant has been sold along with the plant and machineries of the Calico Mills and out of the total sale consideration of Rs. 25.60 Crores, an amount of Rs.76 lacs pertaining to the value of Sewing Thread Plant has been ear-marked as realization in the account of Jubilee Mills. Similarly, there was a dispute of ownership of 128 Looms between Calico and Jubilee Mills. These looms were located in Jubilee Mills premises and outside Dariyapur gate, Ahmedabad. Later on, the ownership of said 128 looms came to be decided by this Court in favour of Calico Mills and thereupon those 128 looms were shifted from Jubilee Mills to Calico Mills Alankar division situated at Saranagar, Ahmedabad. At the same locations i.e. at Saranagar, within the same compound wall, there is a unit of ownership of Jubilee Mills called General Products Division (GPD). Due to this complication, a difficulty has always been faced about

separately identifying the assets of General Products Division, unit of Jubilee Mills and Alankar division of Calico Mills situated in the same premises at Saranagar, Ahmedabad.

5. The Official Liquidator has further stated in the report that vide order dated 01.04.2004 passed in O.L.R. No. 11/2004, this Court has confirmed the sale of movable assets of Jubilee Mills lying at its GPD unit at Saranagar in favour of the applicant Society at a consideration of Rs.1.75 Lacs. The applicant Society was permitted by the Official Liquidator vide his letter dated 16.04.2004 to take delivery of the goods sold to it with specific notice to all the Secured Creditors with a request to remain present at the site on the dates of delivery. No Secured Creditors remained present on any date during the course of delivery of the goods sold to the applicant Society. During the course of delivery of goods to the applicant Society, mob of workers of

Calico and Jubilee Mills was assembling at the site and were interrupting the delivery by raising claims and counter claims of ownership of goods belonging to Calico and/or Jubilee Mills. However, with the consensus of the office bearers of applicant Society who are the members of committee of Textile Labour Association for Jubilee Mills and of the members of committee of Textile Labour Association for Calico Mills, the delivery of goods was given to the applicant Society during the period between 19.04.2004 to 18.05.2005. Due to ownership disputes between Calico and Jubilee Mills, utmost care was taken with the help of Textile Labour Association members to ensure that only the goods of the ownership of General Product Division are delivered.

6. The Official Liquidator has further stated that despite the above facts, certain complaints have been received by him alleging that the office bearers of the applicant Society have taken

certain items of the ownership of Calico Mills.

7. In the above view of the matter, the Official Liquidator has submitted that the prayer made in the present application should not be granted. Even otherwise, it was stated that the applicant Society has already taken delivery of the entire goods sold to it and nothing was left. He has also apprehended that by taking extension of time, there was a great danger that the assets of Calico Mills may be taken away in collusion amongst themselves.

8. The Official Liquidator has filed further report on 23.08.2004 wherein it is stated that one Mr. Jeevanlal F. Parmar, ex-worker of Calico Mills has made complaints / allegations at various Forums and to various Authorities including the President of India, Governor of Gujarat, Textile Minister, Chief Minister of Gujarat, Danilimda Police Station and others. He has also received the copy of the complaint dated 27.07.2004

through Chief Minister's Secretariat's letter dated 09.08.2004. Both these communications are placed on record by the Official Liquidator along with his report. This further report was filed only with a view to place the up to date developments and position in respect of the complaints and allegations made and being made by individual workers of Calico Mills so that all the facts and factors may be considered by this Court for passing such orders and directions as may be deemed just and proper in respect of submissions made by the Official Liquidator in earlier report.

9. In reply to the reports filed by the Official Liquidator on 27.07.2004 as well as on 23.08.2004, an affidavit is filed by the President of the applicant Society wherein the allegations made against the Society have been denied. It is stated that there was no dispute with regard to the ownership as alleged in the report. The machineries which have been sold

were shown in the Statement of Affairs filed by the Ex-Directors of the Jubilee Mills and the entire narration is on page 56 & 57 of the Statement of Affairs. The complaint made by Shri Jeevanlal F. Parmar is absolutely vague and it is not specified therein as to which items are beyond the scope of the order and which are those items, not sold to the applicant were lifted by the applicant. The applicant Society has taken the delivery of goods in the presence of the Officers of the Official Liquidator. It is the duty of the Official Liquidator to make adequate arrangement to give smooth delivery of the goods sold to the applicant. When the delivery was given to the applicant Society, gate passes were issued and the applicant Society was in possession of the gate passes. It is, therefore, submitted that the apprehension made by the Official Liquidator in his report on the basis of the complaint is totally unfounded and hence, the extension of time as prayed for should be granted.

10. Based on the aforesaid reports, complaint as well as the affidavit filed by the applicant Society, this Court has passed an order on 31.08.2004 and notice was issued to the complainant, namely, Jeevanlal F. Parmar with a specific direction as to how he has come to know about 60 trucks goods having taken out from Calico Mills and to furnish detailed address of one Mr. Shaukatali against whom allegations were made by him in the complaint. The Official Liquidator was further directed to pursue the matter with the Security Agency and to ask the responsible person of that agency to personally remain present in the Court on the next date of hearing. The Official Liquidator was also directed to ascertain as to whether the items mentioned in Annexure E at page 21 to the affidavit-in-rejoinder were delivered to the applicant and was directed to file his report to this effect on the next date of hearing.

11. Pursuant to the order passed on 31.08.2004, the Official Liquidator has filed his report on 09.09.2004. Along with the said report, he has annexed letter dated 06.09.2004 written by Universal Security Agency to the Official Liquidator. It was stated in the said letter that the goods in 49 vehicles were delivered by the Creditor Society as per delivery Challan and Gate pass issued by the representative of the Official Liquidator and Credit Society. The Official Liquidator was, therefore, directed to produce these 49 delivery challan/Gate Pass as referred to in his report dated 09.09.2004. The Official Liquidator was further directed to contact Mr. Shokatali on his mobile telephone number as mentioned in one letter dated 27.07.2004. Mr. Jivanlal Parmar – complainant, who is personally present in the Court on 14.03.2005 has submitted that the said Shokatali used to visit the office of the Official Liquidator. The Official Liquidator has also confirmed that generally Mr. Shokatali appears

along with other bidders in his office and he would try to collect his address and inform him to remain present before the Court. Mr. Jivanlal Parmar has also filed affidavit-in-reply dated 17.09.2004 wherein he has stated that he was regularly visiting the site, but from outside the compound. It was found by him that initially three to four trucks loaded with goods were taken out daily for about ten to twelve days and thereafter, on 16th and 17th May, 2004, 7 to 8 truck loads goods were taken away daily and on 18th May, 2004, approximately fifteen truck loads goods were taken out of the compound. All these Trucks carried various items including cupboards, tables, iron sheets taken out of sheds, fans, iron angles, copper, pittal aluminium, jasat cables and wires, tanks and lot of other materials. He has also stated in the said affidavit that the materials lifted were of Calico Mills under the guise of lifting goods of Jubilee Mills. The Official Liquidator has also filed details regarding goods lifted in

49 trucks including the delivery challan number and vehicle numbers and particulars of the goods lifted. From this, it appeared to the Court that the goods sold to the applicant society were only worth Rs. 1,75,000/- whereas the goods taken out in all these trucks are valued much more than Rs.1,75,000/-. The Court was, therefore, of the view that a detailed investigation was required in the matter and for that purpose, presence of the Security Agency, Mr. Shokatali and complainant Mr. Jivanlal Parmar and the responsible person of the applicant Society are required. Since the applicant Society has not filed any reply to the report of the Official Liquidator as well as the affidavit filed by Mr. Parmar, matter was adjourned to 22.03.2005.

12. On 22.03.2005, the Official Liquidator has placed 49 Challans. The Official Liquidator has also infirmed the Court that he wrote a letter to Mr. Shokatali on 18.03.2005 informing him

that the matter was fixed before the Court on 22.03.2005 and he has directed him to remain present before the Court. Despite the aforesaid intimation, Mr. Shokatali has not remained present in the Court when the matter was called out. The Official Liquidator has also placed on record the relevant papers of O.L.R. No. 11 of 2004. On hearing the parties on that day, the Court was of the view that it was required to be ascertained as to whether all the goods sold to the applicant Society are delivered as per the order of this Court and delivery challans are prepared accordingly. It is also to be seen as to whether delivery of the other goods was taken by the applicant Society. The Official Liquidator as well as the learned advocates appearing for the respective parties were expected to compare the goods mentioned in the delivery challans with the items mentioned in the report of the Valuer.

13. Pursuant to the order passed by this Court on

22.03.2005, the Official Liquidator has filed his report dated 31.03.2005. Along with the report, details of delivery, such as Gate Pass No., Gate Pass Date, Reference to Inventory Report, Reference to Page Nos. 56 & 57 of statement of Affairs etc. is attached. The Court observed in its order dated 01.04.2005 that with regard to the items listed in the delivery Challans, the Official Liquidator has submitted that many of these items did not exist or are not ascertainable with reference to Inventory Report or Statement of Affairs. He has also submitted in his report that the description of goods mentioned in certain gate passes did not find place in Inventory Report and/or Statement of Affairs. This is so because the description of goods mentioned in these gate passes is like Misc. Steel Scrap, Misc. Wooden Scrap, broken furniture, Books and waste papers etc. Likewise in some of the cases, though the description is very specific and precise like steel chairs, cupboards, racks, cables, etc.,

but it was not possible to link up such description with a specific serial no. of the Inventory Report and/or Statement of Affairs. From his report, the Court has observed that the Official Liquidator has failed to place the correct facts as to which items were sold and which items were delivered to the applicant. The Court was, therefore, of the view that the applicant has taken the delivery of goods which were not sold to the applicant and which were not belonging to Jubilee Mills and there was possibility that the goods of Calico Mills might have been lifted. The Court was at pains to observe that it was really a very serious matter and all concerned should take note of the fact that the goods were sold in the presence of the representative of the Official Liquidator as well as in the presence of the representative of the applicant and they have duly signed Gate Passes as well as Delivery Challans. Mrs. Poonam Mathur, learned advocate appearing for the Secured Creditor has submitted that the

report filed by the Official Liquidator clearly states that the materials not belonging to Jubilee Mills were lifted by the applicant and hence, proper inquiry is required in the matter. After considering the submissions of the respective parties appeared before the Court on 01.04.2005, the Court has directed the applicant Society to compare the items shown in the Delivery Challan and Gate Passes with the Inventory Report, statement of affairs as well as the list attached along with O.L.R. No. 11 of 2004. The Official Liquidator was also directed to seek explanation from the person of his office who has signed the delivery challans and in his presence the goods were allowed to be lifted by the applicant Society.

14. Pursuant to the order passed by this Court on 01.04.2005, the Official Liquidator has filed his report on 19.04.2005 wherein he has stated that he has sought the explanation of Shri Ketan Velani, a Company Paid Assistant in his office

who was deputed for the purpose of delivery of goods, sold to the applicant Society. The said Mr. Ketan Velani has stated in his explanation that he did not carry keys of Calico Mills premises on any day and he did not open the Calico Mills portion on any day. He has, therefore, stated that nobody had access to the portion belonging to Calico Mills and nothing was delivered or allowed to be removed from the portion of Calico Mills. The Official Liquidator has further stated in his report that so far as the description of goods delivered as mentioned in Gate passes and the description of goods as mentioned in the Inventory-cum-Valuation report of Shri Vinod P. Matadar and the description of goods as mentioned on page 56 & 57 of the statement of affairs are concerned, in the meeting of Sale Committee held on 04.07.2003 the offer for purchase of movable items by the applicant Society at a consideration of Rs.1,25,000/- was recommended by the Sale Committee. The Sale Committee

recommended that offer with the understanding that the offer was for purchase of movable items as listed in the Inventory-cum-Valuation report prepared by the said Valuer on 13.12.2001. Later on, the applicant society informed the Official Liquidator that its offer was not restricted to the items mentioned in the Inventory-cum-Valuation Report of the valuer but its offer was in respect of all the movable items of ownership of Jubilee Mills whatever are lying in GPD unit of Jubilee Mills situated at Chhara Nagar, Ahmedabad as there were few more items which were stated in the statement of affairs of Jubilee Mills but did not find a place in the Inventory-cum-Valuation report of the Valuer. Therefore, fresh meeting of Sale Committee was called by the Official Liquidator whereat it was decided that Sale of all the movable items belonging to Jubilee Mills lying at GPD Unit of Jubilee Mills situated at Chhara Nagar, Ahmedabad was recommended for sale to the applicant society at a consideration of

Rs.1,75,000/-. The Official Liquidator has, therefore, submitted that on 07.10.2003, when the sale was recommended by the Sale Committee, all the movable items of the ownership of Jubilee Mills lying at GPD Unit of Jubilee Mills situated at Chhara Nagar, Ahmedabad, were to be delivered to the applicant Society on confirmation of sale, without any specific reference or restriction to the Inventory report or the Statement of Affairs. All these facts were elaborately mentioned in O.L.R. No. 11/2004 and after hearing all concerned, the sale was confirmed by this Court vide order dated 01.04.2004.

15. An affidavit was filed by Shri Arvindbhai Doshi, President of the applicant Society on 19.04.2005 wherein it is stated that a confusion was created by the report of the Official Liquidator that the applicant Society was sold the items only mentioned in the Inventory Report, but this confusion is unfounded as, in reality, the

applicant was sold all the items which are mentioned at Page Nos. 56 & 57 of the statement of affairs. The furniture which was lying in the GPD Unit was of a scrap value and if realistic valuation was put, then it would not fetch more than Rs. 15,000/-. It was in such a rusty condition that no purchaser will come forward. It was further stated that the very fact that the Sale Committee did not even think it proper to advertise sale of such items was itself sufficient to draw the inference that so-called furniture was absolutely in rusty condition and even the representative of the Official Liquidator was also shown the condition of the items and, therefore, he was constrained to write in the Gate Pass as Misc. scrap etc. Even the steel cupboard and racks and other tables were in absolutely scrap condition and, therefore, the scrap was written.

16. An affidavit was filed by Mr. Shaukat Khan on 21.04.2005 wherein he has denied all the charges

leveled against him. It was further stated that the allegations made against him were not substantiated by any cogent evidence. When the Security Agency and the applicant, being the purchaser of the goods, have made the statement to the effect that he was not involved in any removal of the goods, in that case, on the basis of barred allegations, no action can be taken against him. To shield the misdeeds and unscrupulous as well as illegal activities of the real culprits, such baseless allegations were made against him. It was further stated that it is the duty of the Official Liquidator, members of the Sale Committee including the Workers and the Secured Creditors and the duty of the Security Agency to safeguard the properties / assets of the Company in liquidation.

17. An additional affidavit was filed on 29.04.2005 by Mr. Jivanlal F. Parmar wherein he has interalia stated that fencing between the GPD

Unit of Jubilee Mills and the Sulzer Unit of Calico Mills did not exist, there was definite access to the Sulzer Unit of Calico Mills and through the Sulzer Unit to the record rooms and the records do not exist. The items belonging to Calico Mills have been taken away. Moreover, heavy cables, generator, cycle stands, water pipelines and Air Condition plant belong to Calico Mills do not exist in the Compound. On page No. 136 of the Valuation report of the assets of Calico Mills situated at Saranagar, the items mentioned as overhead tank, open shed for parking, A.C. Sheet with MS Pipe framing did not physically at present exist at their relevant places. On page No. 159, item Nos. 5,6 & 7 i.e. Cycle stands did not exist. Other electrical installations and scraps shown in the said valuation report are also not in existence. These are some of the missing items which were belonging to Calico Mills and it is apprehended that these items have been taken away by the applicant Society.

18. Lastly, further affidavit was filed by the President of the applicant Society wherein he has denied all the charges leveled by Mr. Jivanlal F. Parmar and submitted that the applicant Society has not lifted any items of the Calico Mills and reiterated all the submissions which were made earlier and requested the Court to allow the present application and the applicant be allowed to lift the materials which was not delivered though sold to the applicant Society.

19. Mr. D.S. Vasavada, learned advocate appearing for the applicant Society as well as for Textile Labour Association has submitted that the allegations leveled against the applicant Society are not substantiated by any cogent and clear evidence and merely on the basis of conjectures and suspicions, no action can be taken against the applicant Society. The applicant Society has lifted the goods which

were sold to it and even part of the goods could not be lifted within the time granted by this Court and hence, the present application is moved. The scope of the present application is only to decide as to whether the time is to be granted or not. There is no justification, therefore, to level any charges or allegations against the applicant Society and to take any action in respect thereof. In support of his submissions, he relied on the decision of this Court in the case of **Vajir Nagji Kesharaji V/s. State Of Gujarat, 1984 (1) 25 G.L.R. 47** wherein this Court has taken the view that conjectures and suspicions cannot take place of proof.

20. Mr. Vasavada has further relied on the decision of this Court in the case of **Ganpat Ramanlal Dave V/s. Divisional Supdt. Western Railway., Baroda & Another, 1984 (1) 25 G.L.R. 641** wherein this Court has taken the view that even though strict rules of evidence may not be applicable in case of departmental proceedings, atleast

there should be some positive evidence which can lead to the inference that the occupation of the space by the petitioner was for the purpose of selling the same on premium.

21. Mr. Vasavada has further relied on the decision of the Hon'ble Supreme Court in the case of **Dasari Siva Prasad Reddy V/s. Public Prosecutor, High Court of A.P., AIR 2004 SUPREME COURT 4383** wherein it is held that a strong suspicion, no doubt, exists against the appellant but such suspicion cannot be the basis of conviction, going by the standard of proof required in a criminal case.

22. Mrs. Poonam Mathur, learned advocate appearing for one of the Secured Creditors and Mr. Jayesh Bhairavia, learned advocate appearing for the complainant, namely, Mr. Jivanlal F. Parmar, on the other hand, have strongly urged before the Court that on the basis of the description given in Gate Passes and the Delivery Challans as well

as the items mentioned in Inventory Report and at page No. 56 & 57 of the Statement of Affairs, it is clearly revealed that the applicant Society has lifted the goods which were not sold to the applicant Society and some of the goods lifted by the applicant Society were belonging to Calico Mills. They have further submitted that the Official Liquidator has changed his stand so as to save his own staff members as well as the applicant Society and no correct facts were placed before the Court. They have, therefore, submitted that the applicant Society be saddled with cost for lifting the additional materials and also proper inquiry and investigation may be ordered in this case.

23. Mr. Pavan Godiawala, learned advocate appearing for Mr. Shaukat Ali Khan against whom allegations were made has also submitted that there was no involvement of his client and false allegations were made against him. He has further submitted that it is the duty of the

Official Liquidator, the applicant Society, Textile Labour Association, Secured Creditors and the Security Agency to see that only those goods were allowed to be lifted which were sold and even if, additional goods were lifted, his client is not at all responsible.

24. After having heard learned advocates appearing for the respective parties and after having gone through various reports filed by the Official Liquidator, affidavits and counter affidavits filed by the respective parties and the documentary evidence produced on record, the Court is of the view that there is no question of granting the prayer made for extension of time in the present application as the Official Liquidator has himself stated in his report that the goods which were sold to the applicant Society were already lifted and nothing was left out. Hence, the extension of time which was prayed for in the present application for lifting the left out goods, is not granted.

Even otherwise, by efflux of time, the said prayer cannot be granted by the Court. The delivery was started on or around 22.04.2004. The period of one month was over on 21.05.2004. The present application is filed on 08.07.2004. Thus, the application itself is belated one. The extension of time was sought for the period of one month and even before filing and during the pendency of this proceeding before the Court, the said period was already over. When this application was moved by the applicant Society, the said period was already over.

25. The real question with which the Court concerns heavily is as to whether the applicant Society has lifted any additional goods which were not sold to it. The Official Liquidator in his one of the reports has clearly indicated that the goods were delivered to the applicant Society under 49 Gate Passes / delivery Challans. He has further submitted in his report that the description of goods mentioned in certain Gate

Passes do not find place in Inventory Report and/or Statement of Affairs. These facts are sufficient to draw an inference that the goods delivered to the applicant Society were much more than what was sold to the applicant Society. The Official Liquidator has, thereafter, changed his stand and submitted before the Court that the goods were sold to the applicant Society irrespective of any reference or restriction to the Inventory Report or the Statement of Affairs. However, the goods which were sold were of Jubilee Mills and not of Calico Mills. It was made clear from the affidavit of Shri Jivanlal F. Parmar filed on 29.04.2005 that heavy cables, generator, Cycle stands, water pipelines and Air Condition plant belonging to Calico Mills did not exist in the compound. A specific reference to page No. 136 of the Valuation report of the assets of Calico Mills situated at Saranagar was given and the items mentioned on the said page, namely, overhead tank, open shed for parking, A.C. Sheet

with MS Pipe framing did not physically exist at their relevant places. Even on page No. 159, item Nos. 5,6 & 7 i.e. Cycle stands did not exist. Certain electrical installations and scraps shown in the said valuation report were also not in existence. It was categorically stated that these missing items were belonging to Calico Mills and the said items have been taken away by the applicant Society. The Court has, therefore, no hesitation to come to the conclusion that the applicant Society has lifted the goods more than the goods sold to it. The applicant Society is, therefore, liable to reimburse to the Official Liquidator to the extent of the value of the additional materials which were lifted and such value is estimated at Rs. 2 Lacs considering the approximate value and quantum of the excess goods lifted by the applicant Society. The Official Liquidator is, therefore, directed to recover a sum of Rs. 2 Lacs from the applicant Society and on recovery of the said amount, same should be credited to

the account of Calico Mills Limited. As far as the role played by the office of the Official Liquidator is concerned, the same is also not free from any doubt or suspicion. The explanation tendered by the staff member of the Liquidator's office is also far from truth. His only explanation is that he has not taken the key of Calico Mills and there is no access to the premises of Calico Mills. However, these facts have been controverted by the complainant, namely, Shri Jivanlal F. Parmar and he has stated in his affidavit that fencing between the GPD Unit of Jubilee Mills and the Sulzer Unit of Calico Mills did not exist and that there was definite access to the Sulzer Unit of Calico Mills and through the Sulzer Unit to the record rooms. The Official Liquidator has, therefore, failed to protect the properties of the Company, namely, Calico Mills Ltd., and did not take any care to see that only those goods were allowed to be lifted which were sold to the applicant Society. The Security Agency has also failed to

draw the attention of the Official Liquidator when the applicant Society has started lifting goods from the premises of Calico Mills.

26. The role of Mr. Shaukat Ali Khan also creates certain doubts and suspicion as he used to visit frequently the office of the Official Liquidator and normally, he facilitates in such transactions to lift the goods and sell the same to other parties by adopting such devices. In any case, all these aspects are required to be closely scrutinized and proper inquiry and investigation is necessitated in the matter. As a matter of fact, the Court has initially decided to hold such inquiry during the course of this proceeding. However, the Court has already directed the Central Government to investigate the affairs of the office of the Official Liquidator over the period of last 10 years while passing an order in O.L.R. No. 61 of 2005. This issue can also be looked into while undertaking such inquiry and hence, no separate

order of inquiry is made in the present application. A writ of this order shall, therefore, be sent to the same authority forthwith.

27. With the aforesaid observations and directions, this application is accordingly disposed of without any order as to costs.

[K.A. PUJ, J.]

28. Mr. D.S. Vasavada, learned advocate appearing for the applicant has prayed for stay against the operation, implementation and execution of this order. Looking to the facts of the case, the request is however rejected.

[K.A. PUJ, J.]

Savariya